

MEETING MINUTES
DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY

Monthly Meeting of the Board

March 6, 2014, 1:00 p.m.
Room 540 South (BEGA Board Hearing Room)
One Judiciary Square

AGENDA

I. Call to Order

The Monthly Meeting of the Board was called to order at 1:02 pm by Chairman Robert Spagnoletti in Hearing Room 540 South at One Judiciary Square, 441 4th Street NW, Washington, DC 20001.

II. Ascertainment of Quorum

All Board members were present constituting a quorum.

III. Adoption of the Agenda

The Agenda was adopted unanimously.

IV. Acknowledgment of Adoption of the Minutes of the February 6, 2014, meeting.

The Minutes of the February 6, 2014, meeting were adopted unanimously.

V. Report by the Director of Open Government

The Director of Open Government (OOG), Traci Hughes informed the Ethics Board that on February 10th, she testified before the Government Operations Committee as part of BEGA's oversight hearing. Director Hughes' testimony focused on the progress the Office of Open Government has made over the past

ten months in improving access to board and commission meetings dates, trainings on the Freedom of Information Act (FOIA) and the Open Meetings Act (OMA), and the efforts of the executive to improve FOIA processing and overall transparency at the behest of the Office of Open Government. The public witnesses, who attended the hearing, testified in support of the Office of Open Government. Director Hughes noted that they stressed the need for additional funding and full time employees (FTE's) for the office, and for the office to have greater enforcement authority under the FOIA and the Open Meetings Act. There was also a great deal of discussion between the witnesses and committee Chairman McDuffie about Advisory Neighborhood Commissions (ANC's) being brought under the mandates of the OMA.

a. Personnel

Director Hughes reported to the Board that BEGA will soon have an IT Specialist on staff. Jada Irwin will begin on Monday and will be in charge of maintaining the website and managing the e-filing system.

b. Trainings

Since the last board meeting, Director Hughes has conducted FOIA trainings at the Public Service Commission and an Open Meetings Act training of the members of the DC Sentencing and Criminal Code Revision Commission.

A scheduled Federal FOIA training for the Metropolitan Police Department was postponed. Director Hughes is working with a representative from the Office of Government Information Services to conduct the training to include someone from the Department of Justice.

Open Meetings Act training for boards and commissions points of contact had been scheduled for Tuesday, March 4, 2014, but was postponed because of the weather. Director Hughes told the Board that there is an April 8 training scheduled, and it will include presentations by the Director of Government

Ethics (OGE) and Darryl Gorman, the director of the Office of Boards and Commissions.

c. Website

Director Hughes informed the Board that the points of contact continue to include meetings on the central calendar on the website. There are still 24 people who have never accessed the system to enter their board or commission meeting information.

On February 22, Director Hughes attended the Open Data Day at the World Bank and was happy to see so many civic hackers – many of whom are scrubbing District data, and making it available in some unique ways. In fact, Director Hughes has included on the BEGA website a link to ANC FINDER – a website created by Code for DC.

d. Hearing Room

Director Hughes reported to the Board that the Office of the Chief Technology Officer (OCTO) will begin work on the hearing room the second week of April. The project will take 30 days to complete.

e. Sunshine Week March 16-22

Director Hughes then informed the Board that she has been invited to deliver the keynote speech at this year's Open Government Summit on March 19th at the National Press Club. The summit is co-sponsored by the National Press Club's Freedom of the Press Committee, the DC Open Government Coalition, the DC Professional chapter of the Society of Professional Journalists and the American University School of Communication. The event begins at 6:30.

VI. Report by the Director of Government Ethics

a. Update on Status of Office of Government Ethics (OGE) Operations – Recap of Previous Month's Activities (Statistics)

Investigations: Opened since last meeting: 2
 Closed since last meeting: 2
 Currently Open: 13

b. Publication and Reporting Obligations

The Office of Government Ethics (OGE) met all publication and reporting obligations. The next Quarterly report is not due until the end of March.

c. Trainings

- i. Attended by staff – 0
 - ii. Conducted by staff – 3 Hatch Act trainings conducted by Attorney-Advisor, Yancey Burns (Criminal Justice Coordinating Council, Department of Small and Local Business Development, one joint training with OOG Director, Traci Hughes for the Public Service Commission (Hatch Act & Freedom of Information Act))
- 2 New Employee Orientations (NEO)

iii. OGE had another Hatch Act Training scheduled for Office of Police Complaints on Monday March 3, but that was cancelled due to snow. Not yet rescheduled.

iv. Upcoming Hatch Act Trainings:

-DCRA - March 13th

-Boards and Commissions - April 8th.

-Director of Government Ethics, Darrin Sobin informed the Board that the OGE will keep their schedule light in regards to trainings until the Office of Administrative Hearings hearing is over and will mostly just conduct NEO's until that time.

d. Advisory Opinions

Director Sobin told the Board that no requests were received since the last meeting. Also one advisory opinion, written previously, was published since the last meeting.

Informal advice: Fielded 40 requests for informal advice since last Board meeting. The majority of this was written email advice.

e. Lobbyist Matters

Attorney-Advisor, Cristina Patzelt informed the Board that demand letters are being worked on to send out to lobbyists to inform them of penalties for non/late filing of 2013 registrations and activity reports. Ms. Patzelt also

informed the Board that OGE is still in the process of determining late/non-filers for 2014.

Ms. Patzelt then reported that the e-filing system is up & running for members of the public, but OGE has had problems accessing the admin. menu of the e-filing system as system administrators for approximately 1 ½ weeks. The Office of the Chief Technology Officer (OCTO) is working to fix the problem.

f. Financial Disclosure Statement (FDS) Matters

The OGE received inquiry about DC Housing Authority(DCHA) filings. Mr. Burns informed the Board that the OGE determined that for the agency, DCHA is not required to file with BEGA. DCHA employees are under a different pay scale (not Excepted Service) and the DCHA Executive Director is not an Executive Service employee under the Mayor. In addition, with the exception of some money for the DCHA Police Force, DCHA is not funded by District government but rather the Federal government.

The OGE is preparing for FDS filings, which will be due May 15, 2014. Mr. Burns reported that the OGE is reaching out to the executive, legislative, independent agencies, and boards and commissions, to create a comprehensive list of all agencies that have employees who will be required filers. Ultimately the OGE will send a memorandum to all such agency heads & board/commission chairs to remind them of their filing duties.

g. Budget Matters

Director Sobin informed the Board that the Oversight hearing went well and that the primary focus by Councilmember (CM) McDuffie was the amount of

training that BEGA is doing. CM McDuffie was concerned if the Hotline was being used and whether it was worth the expense. Director Sobin informed the Board that although the Hotline isn't used that much this is indicative of the fact that the public trusts BEGA and doesn't feel the need to call anonymously. Director Sobin also told the Board that CM McDuffie thanked BEGA for the thoroughness of the Hatch Act training that was provided to his staff.

Director Sobin informed the Board that the reprogramming has gone to the Mayor's Office for approval. April 14th is BEGA's budget hearing for Fiscal Year '15. The OGE has asked for an additional investigator and an additional administrative person to handle FDS/Lobbyist Registration and Reporting.

h. Non-Confidential Investigations

i. #AI-017-13 – In Re: Larry Hicks

Director Sobin informed the Board that an appeal was filed in D.C. Superior Court. Director Sobin also reported that The Office of the Attorney General (OAG) is handling this case for the OGE but the OGE is coordinating.

ii. #1060-001 – Office of Administrative Hearings (OAH) Investigation

The Ethics Board decided that for the hearing that all subpoenas have to go to the Board for approval before they are sent out. The Ethics Board granted a request from the defendants to depose Administrative Law Judge (ALJ), John Rooney. The Board also denied three subpoenas *duces tecum* as to ALJ Arabella Teal, Eugene Adams, and the Department of General Services (DGS) without prejudice because they said the other side needed to narrowly tailor their subpoenas. The

Board also denied the defendants Motion to Compel. The Board has yet to rule on the defendants Motion to Extend Deadlines.

iii. #1008-006 - Yvonne Wimbish - Update on Status of Negotiated Disposition

The OGE fixed the negotiated disposition to include language specifying that Ms. Wimbish will be performing her community service at Share Food Network part of Catholic Charities located in D.C. This is an approved entity by Court Services and Offender Supervision Agency (same place she did her previous community service for criminal case). The OGE doesn't have the disposition signed yet because Ms. Wimbish was briefly hospitalized but she is now home and has the negotiated disposition. The OGE expects her to sign shortly.

VII. Opportunity for Public Comment

One member from the public named Rodney Cobb with the company Git Machines spoke to the Board. Mr. Cobb informed the Board that his company works to improve electronic communication in both local and federal government through various applications. He also informed the Board that he had met with Director Hughes previously and looks forward to working with the OOG and District Government in general.

Open Meeting closed at 1:54 p.m.

VIII. Executive Session (non-public) to Discuss Ongoing, Confidential Investigations pursuant to D.C. Official Code § 2-575(b)(14), to deliberate on a decision in which the Ethics Board will exercise quasi-judicial functions pursuant to D.C. Official Code § 2-575(b)(13), and Personnel matters pursuant to D.C. Official Code § 2-575(b)(10).

IX. Resumption of Public Meeting

a. Discussion of any remaining public items

The closed Ethics Board meeting ended at 2:07 p.m. The Ethics Board open meeting then re-opened.

X. Adjournment

Having no further business, the Ethics Board meeting closed at 2:08 p.m.